

For Immediate Release – February 2, 2010  
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**Opening Statement of U.S. Senator Russ Feingold**  
***Hearing on “Corporate America vs. The Voter”***  
***Senate Rules and Administration Committee***

As Prepared For Delivery

“The Supreme Court’s decision in *Citizens United* was a tragic error. The Court reached out to change the landscape of election law in a drastic and wholly unnecessary way. By acting in such an extreme and unjustified manner, the Court has badly damaged its own integrity. More important, it has harmed our democracy in ways that may not be fully understood today, but will likely become clear over the next few election cycles.

“There is, of course, a debate about how much impact the Court’s decision will have. The *Wisconsin Right to Life* decision in 2007 had already significantly undermined the electioneering communications provision of McCain-Feingold. But by completely removing all restraints on political spending from corporate treasuries, *Citizens United* has unleashed a threat of enormous spending that simply was not possible before. And as we all know, a threat of retaliation at election time may be all that is needed to make a legislator think twice about opposing the already powerful voice of corporate America. All it takes is one senator losing a close election because of a last minute corporate advertising barrage, and everyone will constantly have one eye on what might happen to them. That is why this decision is so dangerous. It will result in legislators being even more responsive to corporations rather than voters.

“The underlying rationale for the Court’s decision – that corporations must have First Amendment rights in the political process equal to those of citizens – makes no sense. Corporations can’t vote or run for office, they don’t have feelings or thoughts. They don’t speak or make decisions except through individuals – their corporate officers, their Boards of Directors, their lobbyists. What they do have is the ability to make huge amounts of money, thanks in part to laws passed by the people’s representatives. So the Court’s ruling has in effect produced a Frankenstein -- the people created corporations, but the Court has denied the people the power to prevent corporations from dominating the political system.

“I have published several op-eds in the last few weeks concerning the likely effects of the Citizens United decision. I ask that they be put in the record of this hearing.

“One bright spot in the Court’s ruling was its recognition that disclosure requirements do not violate the constitutional rights of corporations. I have long believed that disclosure is a necessary, though not sufficient, ingredient of campaign finance regulation. After all, Americans have much more important things to discuss around the kitchen table than the latest expenditure reports filed at the FEC, or the even the latest news story based on those reports. But at the very least, we must make it possible for people who have the right to cast votes to know exactly who is trying to influence their votes.

“You and I have discussed other components of possible legislation – a new definition of ‘coordination’, a prohibition of election spending by government contractors and recipients of bailout funds, a tightening of the provision in existing law concerning contributions and expenditures by foreign corporations. I support these kinds of measures. They certainly don’t reverse the Court’s decision; no legislation can. But they may diminish some of the decision’s worst effects.

“Let me note one final thing as you begin your work on a bill. When we developed the McCain-Feingold bill, we played close attention to previous First Amendment and campaign finance decisions of the Supreme Court and tried very hard to ensure that it would be upheld. Major decisions like *Shrink Missouri*, *FEC v. Beaumont*, and *Colorado Republican II* came down during the seven years we worked on that bill, and we took a hard look at the legislation in light of each new decision. We knew our bill would be challenged, but we felt we had strong and good faith arguments in support of the constitutionality of each and every provision. And we were right. The Court upheld the bill almost in its entirety. It took a change in membership on the Court to reverse that decision. And even today, the centerpiece of our bill – the prohibition on soft money contributions to political parties -- is still in place.

“As legislators, we have a duty to carefully consider the constitutional questions raised by legislation. But we are not mind readers, nor can we predict the future. So I urge you to do your duty but not be dissuaded from acting by fear of the Court. This terrible decision deserves as robust a response as possible. Nothing less than the future of our democracy is at stake.”

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